

**MINUTES
of the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**July 14-15, 2015
J. Cloyd Miller Library
Western New Mexico University
Silver City**

The second meeting of the Economic and Rural Development Committee (ERDC) was called to order by Senator Benny Shendo, Jr., chair, on July 14, 2015 at 9:48 a.m. at the J. Cloyd Miller Library on the Western New Mexico University (WNMU) campus in Silver City.

Present

Sen. Benny Shendo, Jr., Chair
Sen. Ron Griggs
Rep. D. Wonda Johnson
Rep. Rick Little
Sen. Richard C. Martinez
Sen. John Pinto
Rep. Debbie A. Rodella
Rep. Patricia Roybal Caballero
Rep. Bob Wooley
Rep. John L. Zimmerman

Absent

Rep. Dianne Miller Hamilton, Vice Chair
Sen. Jacob R. Candelaria
Sen. Michael Padilla
Sen. Pat Woods

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Craig W. Brandt
Sen. Lee S. Cotter
Rep. Bealquin Bill Gomez
Sen. William E. Sharer

Rep. George Dodge, Jr.
Rep. Nora Espinoza
Rep. Jimmie C. Hall
Sen. Carroll H. Leavell
Rep. Patricia A. Lundstrom
Sen. Mark Moores
Sen. Mary Kay Papen
Rep. Dennis J. Roch
Rep. Nick L. Salazar

Guest Legislator

Sen. Howie C. Morales (7/14)

(Attendance dates are noted for those not present for the entire meeting.)

Staff

Monica Ewing, Staff Attorney, Legislative Council Service (LCS)
Celia Ludi, Staff Attorney, LCS
Erin Bond, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Tuesday, July 14**Welcoming Remarks**

Senator Shendo welcomed members of the committee, staff and guests to the meeting. Committee members and LCS staff members introduced themselves.

Michael Morones, mayor of the Town of Silver City, and Bruce Ashburn, representing the Grant County Prospectors, welcomed the committee to Silver City.

Dr. Joseph Shepard, president of WNMU, summarized 15 components of economic development as follows:

- 1) an integrated approach involving multiple stakeholders. As an example, he described the office space provided by WNMU in which the Silver City Chamber of Commerce, the Southwest Chapter of the New Mexico Green Chamber of Commerce, the Gila Economic Development Alliance and other organizations are co-located to facilitate communication, shared goals and mutual support;
- 2) vision and inclusion. He described China's economic transformation, which began with a comprehensive education plan and extensive infrastructure construction;
- 3) poverty reduction;
- 4) local focus;
- 5) identification of industry clusters based on wired communities. He pointed out that Austin, Texas, has grown into a technology hub based on its technology infrastructure, and he opined that New Mexico needs bigger and better broadband capacity statewide;
- 6) wired communities;
- 7) long-term investment. Planning should be done with consideration of at least three generations in the future;
- 8) human investment, specifically in kindergarten through twelfth grade education;
- 9) environmental responsibility that balances the use of natural resources;
- 10) corporate responsibility and encouragement of corporate-civic partnerships that hold corporations responsible for civic impact;
- 11) compact development in areas with existing infrastructure;

12) liveable, multidimensional communities in which resources are shared among community members. For example, WNMU has opened its theater and gym for community use. He suggested that continued legislative support of universities and a requirement that those universities share resources with their surrounding communities would be a benefit to the universities and to the communities that support them;

13) distinctive, unique communities that complement each other;

14) recognizing that no organization or community can be all things to all people; and

15) regional collaboration.

Dr. Shepard suggested that the legislature could affect economic development statewide by providing for improvements to technology and broadband access, and by modifying the state's liquor control system to provide for accessibility to small businesses.

A committee member agreed that the current liquor license regulatory scheme, which has had the unintended and unforeseen consequence of raising the cost of liquor licenses to place them out of the reach of small businesses, can impede economic development. Dr. Shepard suggested the creation of liquor licenses that are nontransferable and limited, which could help reduce the cost to a business seeking a license but would preserve the value of existing licenses. Other committee members asserted that overregulation by various agencies also has a negative effect on business expansion.

During a discussion about the connections between education and poverty, in response to a committee member's question, Dr. Shepard opined that focusing on an early childhood education curriculum that includes the arts and science, technology, engineering and mathematics studies is crucial to a student's success in and after school.

Several committee members referred to ongoing efforts to expand broadband and aviation facilities infrastructure statewide, as well as the impact of the availability of water on the agriculture and mineral extraction industries.

Approval of Minutes

The minutes of the June 22, 2015 meeting were approved unanimously without amendment.

New Mexico True: Research and Initiatives

Rebecca Latham, secretary, Tourism Department, informed the committee that tourism in the state has increased significantly in recent years. She said that results from studies of the department's return on investment and of the effect of the New Mexico True campaign are being compiled.

Secretary Latham said that the department is committed to increasing tourism in the state by making strategic, data-based decisions guided by the following goals:

- building a strong brand;
- creating unity;
- requiring rigor; and
- inspiring in-state travel.

In response to questions from committee members, Secretary Latham said that she would provide an explanation of the department's visitor number data collection and analytical approaches.

Secretary Latham described marketing strategies based on focus-group research that were used for five markets: Chicago, Dallas, New York City, Denver and San Diego. She said that research shows that people in southwestern cities are not interested in New Mexico for its cuisine, but rather for its culture and history. Similarly, people from cities with significant snowfall during winter are not interested in New Mexico because it offers skiing and other winter activities; however, people in areas with milder winters appear to respond to the fact that the state offers many winter and cold-weather activities.

The New Mexico True campaign targets "venturesome travelers" who seek authentic experiences that are unique to New Mexico. Venturesome travelers, she said, travel more frequently, stay longer and spend more money. Examples of New Mexico True advertisements are found in airport dioramas; digital marketing; print ads; "culinary getaway" prizes offered by the Food Network; New Mexico True Film Trails, which are maps that guide people to sites used for film production; New Mexico True Views, which offer videos of locations throughout the state filmed using drones; and television productions, including 30-second video clips called "NewMexicoTrue Stories" and "NewMexicoTrue Heroes". Secretary Latham noted that another purpose of the New Mexico True campaign is to support the state's economy by encouraging vacationers to return to the state to work, start businesses or retire.

Secretary Latham described how the department collaborates with other agencies and interested parties. She described the department's collaboration with the 30 New Mexico True communities, in which the department provides advertising assistance and tourism grants. The department has awarded hundreds of thousands of dollars through the grant program. The department has also worked with the National Park Service to create a video contest called "Find Your New Mexico True Park", for which contestants create videos describing what it is that makes a park "theirs". The videos are then linked to a state map that allows people to hear about others' experiences when visiting New Mexico parks.

A committee member observed that all 30 New Mexico True communities are incorporated and said that the state's unincorporated communities are important tourist destinations. Secretary Latham said that the department works with any community that is interested in collaborating with the department on tourism efforts.

In response to questions, Secretary Latham said that the department has developed a guide to experiencing the state's Native American cultures and areas, and she said that the guide is available at visitors' centers. She said that the state's Native American culture is an important part of tourism to New Mexico, but the department is careful to ensure that it works with communities that are interested in participating in tourism efforts. In response to a committee member's concerns with the portrayal of Native Americans in tourism products, Secretary Latham said that the department believes good communication between the state's Native American communities and the department is important, and she added that the department recently hired a person dedicated to Native American tourism.

Several members of the committee felt that poor customer service due to low wages could drive away return tourism and that training should be in place to prevent such problems. Secretary Latham acknowledged the concern and expressed hope that by increasing revenue in the state, the economic climate of the state could be changed through tourism.

Nontraditional Economic Development: Business Incubation, Work Force Training, Research Institution Collaboration and Investment in Technology Intellectual Property

Dr. Kevin Boberg, vice president for economic development, New Mexico State University (NMSU), highlighted recent accomplishments at three New Mexico universities. He said that in June, the University of New Mexico was recognized as number 42 of the top 100 universities in the nation for the patents it has applied for and received. The New Mexico Institute of Mining and Technology (NMIMT) is working to use solar technology developed for space and scaling the technology to apply to residences. NMSU has implemented nontraditional approaches to economic development through business incubation, work force training, research institution collaboration and investment in technology intellectual property.

Dr. Boberg described three NMSU technology development programs: 1) Studio G — an NMSU student business incubator that currently involves 90 students; 2) Innoventure — a bilingual program that teaches entrepreneurship to youths in kindergarten through the twelfth grade; and 3) the Arrowhead Center, which was created to lead NMSU's economic development initiatives through business creation and growth, education and training, intellectual property commercialization and partnerships with industry and the community. He added that NMSU's Cooperative Extension Service maintains an office in every county in the state, and it collaborates with 4-H organizations throughout the state and with Engage New Mexico to help connect communities with agricultural science and technology.

Dr. Boberg opined that New Mexico cannot attract and grow businesses if it does not have a globally competitive work force and that the development of that work force should begin in kindergarten, if not earlier.

Developing a Sustainable Energy Economy for Southwest New Mexico

Priscilla C. Lucero, executive director, Southwest New Mexico Council of Governments (SWNMCOG), informed the committee that the Southwest New Mexico Energy and Green Jobs

Task Force, which was convened by former United States Senator Jeff Bingaman's office in 2010, recently received a \$250,000 grant from the United States Department of Commerce's Economic Development Administration for the purpose of organizing a regional office of clean energy development and sustainability and to support rural entrepreneurship and business development in the region. The SWNMCOG is a member of the task force.

Ms. Lucero and Emily Schilling, economic development planner, SWNMCOG, presented the work plan for the grant. With the funds, the SWNMCOG would like to help small Silver City businesses work with the city to perform energy-efficiency audits of the businesses. The SWNMCOG also plans to help distribute education outreach to the community. Ms. Lucero said that the SWNMCOG hopes to work with the NMIMT to create a clean energy business incubator that could focus on the use of energy-efficient appliances.

Some committee members expressed concerns that renewable energy sources are currently too costly. Ms. Lucero said that there is a broad spectrum of energy-related needs that the SWNMCOG can address through its work, including weatherization of residences and helping small businesses to reduce costs to help with growth and job creation. She added that New Mexico should be at the forefront of clean energy initiatives.

Ms. Schilling remarked that the grant was given to the organization in part to allow the SWNMCOG to serve as a pilot program for New Mexico and to illustrate to other council of governments organizations what can be achieved.

Application of Oil Conservation Rules — Senate Bill 601 (2015)

Senator Griggs reviewed the substance of Senate Bill 601, which he introduced during the 2015 regular legislative session. The bill relates to state oil conservation rules and would have required that rules promulgated by the Oil Conservation Commission or the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (EMNRD) apply uniformly to all counties, with certain exceptions. Senator Griggs also reviewed the analysis completed by the EMNRD in connection with the bill. The committee engaged in a brief discussion of the effects of administrative rules on economic development in the oil and gas industry.

A committee member inquired about the progress of the bill after it was introduced. Senator Griggs said that the bill's progress was delayed. He said that some environmental groups expressed concerns with protecting Otero Mesa, but he added that Otero Mesa constitutes just a part of western Otero County. The bill, he said, aimed to allow for reasonable and fair rules governing the oil industry. He added that the bill provided for counties to request that oil development be restricted in particular areas, such as the Galisteo Basin or Otero Mesa.

Aiming for Consistency in the Rulemaking Process

Linda Trujillo, state records administrator, State Commission of Public Records (SCPR), reviewed the agency rulemaking process and said that the lack of specific guidelines for rulemaking makes public participation difficult and reduces the transparency of the process. Ms.

Trujillo explained that the State Rules Act, enacted in 1967, establishes the basic requirements for the rulemaking process, but it does not address all of the steps an agency must take to promulgate rules. The act does not address the adjudication of challenges to rulemaking processes. The Administrative Procedures Act, enacted in 1969, establishes basic processes for both rulemaking and adjudication, but state agencies are exempt from the provisions of that act unless the agency adopts it, which very few agencies have done.

Other rulemaking requirements that are specific to individual agencies are found in the Uniform Licensing Act and the Executive Reorganization Act and in enabling statutes of many agencies. Ms. Trujillo expressed concern that because of the patchwork nature of statutes that address rulemaking, the rulemaking process is inconsistent across state government, which creates difficulty for members of the public who wish to participate in the process.

Ms. Trujillo related that in 2010, the national Uniform Law Commission, which includes 12 members from New Mexico, updated the Model State Administrative Procedures Act (MSAPA), which addresses both rulemaking and adjudication. A state task force was convened in 2010 to review the updated MSAPA and consider changes to state rulemaking statutes. The task force's consensus was that the rulemaking process should be addressed before adjudication revisions were made; that rulemaking processes should provide for more transparency, earlier involvement by a wider variety of stakeholders and greater uniformity; and that revisions should not result in great cost or burden for agencies or the legislature.

As a result of the task force's work, rulemaking process bills were introduced in 2011, 2012 and 2015; however, none of those bills were passed. Matt Ortiz, director, Administrative Law Division, SCPR, explained that Senate Bill 194 from the 2015 regular session passed the senate unanimously, but time ran short and it did not pass the house. That bill would have applied to all agencies and would have required a specific period for public comment, a public hearing process and a record of the rulemaking; eliminated rulemaking that could conflict with state statutes; clarified the process for filing emergency rules; and charged the attorney general with developing default procedural rules for rulemaking notice and process that agencies could follow.

In response to a question from a committee member, Ms. Trujillo said that Senate Bill 194 did not include a legislative review process of agency rulemaking, but she noted that 23 states have some sort of legislative review or independent review provision.

Public Comment

Tom Manning expressed support for development of renewable energy resources and provided the committee with a handout comparing costs of electricity generated from solar, wind, coal and nuclear technologies.

Michael Salber expressed support for the development of solar energy in New Mexico, and he said that there are more above-minimum-wage jobs available in renewable energy industries than in coal power industries.

Dan Lorrimer introduced himself as a representative of the Sierra Club and expressed support for the committee's work.

The committee recessed at 4:15 p.m.

Wednesday, July 15

Senator Shendo reconvened the meeting at 9:13 a.m.

Liquor Control Policy and Economic Development

Alex Ocheltree, a Silver City businessperson and a member of the Liquor Control Act Task Force, which met during 2014, addressed a number of issues related to liquor control policy and economic development. He recalled that in 2015, the legislature passed, and the governor signed, Senate Bill 241, which allows the transfer of dispenser's licenses to any local option district without restriction based on the status — over- or under-quota — of the relevant local option districts. He opined that this change to the law will likely leave some communities without any dispenser's licenses because the licenses can now be sold to other communities and because the cost to purchase a dispenser's license has increased and will continue to be beyond the reach of small business owners. Two dispenser's licenses in Las Cruces recently sold for \$979,000 each, a price that often only large national or multistate corporations are able to pay. He said that due to the change in the law, dispenser's licenses are out of the reach of local owners of a single small restaurant.

Mr. Ocheltree opined that there are some potentially unforeseen or unintended consequences of the state's current liquor control policies. For example, he said that because liquor licenses are so costly, licensees often employ very aggressive sales tactics, pushing the sale of alcoholic beverages in order to meet financial obligations related to acquiring a liquor license and still run a profitable business, which he said could contribute to many alcohol-related public health and economic problems. He suggested that if licenses were more affordable and available, the state could experience a reduction in concerns related to the overservice and consumption of alcohol because business owners would be less likely to aggressively sell alcohol.

Mr. Ocheltree told the committee that downtown Silver City has suffered economically because of the fact that there are currently no businesses in the area that possess a dispenser's license. He said that Silver City's economic revitalization efforts targeted weekend tourism from Tucson and El Paso; however, similar and competing tourist destinations like Bisbee, Arizona, offer bars and restaurants in their downtown areas, all of which offer entertainment opportunities that downtown Silver City cannot.

Mr. Ocheltree proposed the creation of a liquor license that is nontransferable and limited in its scope, similar to the enhanced restaurant license proposed in Senate Bill 71 (2015), which did not pass but would have created a license to allow a restaurant to sell only New Mexico-produced distilled spirits. He said that such a limited license, offered for a reasonable fee, would not have any extrinsic value because it could not be transferred, and limited licensees would not compete with dispenser's licensees.

Two additional new license types proposed by Mr. Ocheltree were a "tavern license" that would allow New Mexico craft distillers to sell their products in their tasting rooms and licenses issued to performance venues, restaurants and bars located in historic and cultural districts.

Teresa Dahl-Bredine, co-owner of Little Toad Creek Brewery and Distillery in Silver City, asked the committee to consider a policy change that would add craft distilled spirits to the drinks that may be sold by a restaurant licensee. She expressed support for extending service hours to midnight from 11:00 p.m. Ms. Dahl-Bredine thanked the committee for its support of House Bill 339 (2015), which would have allowed craft distillers and small brewers to operate three off-premises tasting rooms as winegrowers are currently permitted, had it not been pocket vetoed.

Shannon Murphy, a member of the City of Santa Fe's Nighttime Economy Task Force, said that the task force was formed in 2014 to address concerns with the city's waning nighttime economy. She noted that in the past 10 years, 10 music venues in the city have gone out of business after just a few years in operation, and entrepreneurs, artists, musicians and young people are leaving the city. The task force found that the sale of alcohol at performances is crucial to a performance venue's success because proceeds from ticket sales are used primarily to pay artists, and venues rely on other sales — recordings, apparel and alcohol — to cover the costs of operation.

Ms. Murphy suggested the creation of a "concession license" issued for cultural events. The concession license, she said, would be similar to a restaurant license, but would require a licensee to receive a certain amount of revenue from ticket or performance sales rather than from the sale of food. She explained three benefits to the proposed license: it would not threaten the value of existing licenses; existing licensees would not lose revenue to concession licensees; and it could reduce the public safety threat caused by aggressive alcohol sales by licensees that could not meet the costs of operation, including the cost of paying for a more expensive dispenser's license. She said that Santa Fe conducted a pilot project in which concerts were held in three different venues on three different nights and attendance and business revenue were measured. The results of the pilot project showed that 67% of concert attendees also purchased dinner from restaurants near the concert venues; on average, attendees spent \$38.00 for a ticket, food and drinks; and businesses in the vicinity of the concert venues experienced increased revenues on the nights on which concerts were held. Ms. Murphy also noted that the task force learned that because of the difficulty in obtaining a license or permit for alcohol sales at a performance,

several unregulated performance venues at which alcohol is consumed began operation in the city.

Ms. Murphy said that because special dispenser's permits for events such as gallery openings are increasingly difficult to obtain — just two galleries in Santa Fe obtained such permits in 2014 — the legislature could consider creation of a "cultural event license" that would allow galleries to contract directly with licensed alcohol servers to serve, but not sell, alcohol at gallery events.

Committee members expressed concern that the current liquor regulatory scheme is hurting small businesses and communities in many ways, but several members noted the important public health and safety issues that have to be considered.

Mr. Ocheltree related his experiences with charity fundraising events at which participants play games of chance, but receive no money for winning those games. He said that it would be helpful to organizers of such useful fundraisers if the law was revised to allow nonprofit fundraising events such as charity casino or bingo events.

Public Comment

Mr. Manning provided the committee with some information regarding the Public Service Company of New Mexico's power generating plan. He highlighted what he said is over a billion dollars worth of the company's accounting errors.

Andy Payne expressed his support for development of renewable energy sources, particularly solar energy, as part of a comprehensive economic development plan.

Cissy McAndrew, executive director, Southwest Chapter, New Mexico Green Chamber of Commerce, expressed her organization's support for economic development that has a positive impact on people, the planet and profits.

Gail Simmons, who co-owns an electric contracting company, informed the committee that the increase in the installation of residential and commercial solar energy has positively affected her business. She asked the committee to support development of solar energy.

George Julian Dworin, director, Silver City Arts and Cultural District, affirmed the importance of tourism to Silver City's economy and expressed appreciation to the Tourism Department for the support it has provided through the New Mexico True programs.

The committee chair recognized Dr. Felipe de Ortego y Gasca, scholar-in-residence at WNMU.

Adjournment

There being no further business before the committee, the second meeting of the ERDC for the 2015 interim adjourned at 11:42 a.m.

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